

**Remarks**

**I.      Status of Claims**

Claims 1-19 are pending. Claims 1 and 18-19 are independent. Claims 3-6 and 15-17 are withdrawn from consideration.

Claims 1, 7, 9, 13, and 14 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Braun (USPGPUB 2004/0144367) ("Braun") in view of Alder (USPGPUB 2004/0107943) ("Alder").

Claim 2 stands rejected under 35 USC 103(a) as allegedly being unpatentable over Braun in view of Alder, as applied to claim 1 above, and further in view of Kraai (USP 5,365,025) ("Kraai").

Claims 8 and 10-12 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Braun in view of Alder, as applied to claim 1 above, and further in view of Langer (USP 5,452,577) ("Langer").

Claims 18 and 19 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Braun in view of Alder, Kraai and Langer.

The Applicants respectfully request reconsideration of these rejections in view of the foregoing amendments and the following remarks.

**II.     Pending Claims**

Claim 1 stands rejected under 35 USC 103(a) as allegedly being unpatentable over Braun in view of Alder. Claims 18 and 19 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Braun in view of Alder, Kraai and Langer.

Certain embodiments of the present invention include an inner pipe 30. The inner pipe includes an open end 31 through which an interior of the inner pipe communicates with atmosphere, and a noise emission decreasing device 40 for decreasing a noise emitted from the open end 31 of the inner pipe 30. Accordingly, claim 1 recites, *inter alia*, "a noise emission decreasing device located within the inner pipe," "the noise emission decreasing device being adapted to act so as to decrease a noise emitted from the inner pipe," and "the inner pipe being disposed in the outer pipe and having an *open end*." Claims 18 and 19 recite similar features. The Office Action concedes that Braun does not teach these features. To cure these deficiencies,

the Office Action relies on Alder. However, in Adler, although the hollow body portion 18 can be filled with a compressible medium, or a solid (See page 2, paragraph [0017]), *it does not have an open end*. Therefore, it is respectfully submitted that neither Braun nor Adler disclose the feature of certain embodiments of the present invention wherein the inner pipe 30 is provided with the noise emission decreasing device 40 for decreasing a noise emitted from the open end 31 of the inner pipe 30. Accordingly, it is respectfully submitted that the inventions of claims 1, 18, and 19 are not anticipated by Braun (since they at least require “the inner pipe being disposed in the outer pipe and having an open end”), or rendered obvious by the combination of Braun and Adler, as alleged.

Having said that, the Office Action summarily concludes that the combination of Braun and Alder would have rendered obvious the combination of features recited in claim 1. In addition to the reasons described above, the Applicants also respectfully disagree for the following reasons.

In the March 23, 2009, Response, the Applicants argued that neither Braun nor Alder provide any teaching, suggestion, or motivation for modifying each other and/or the prior art in the manner as claimed in the invention of claim 1. In this Office Action, the Office Action maintains that one of ordinary skill in the art would have been motivated combine Braun and Alder allegedly “to increase the dampening effect of the inner pipe of Braun by incorporating the noise emission material of Adler, as well as providing a specific desired dampening characteristic.” In the Response to Arguments, the Office Action further alleges that the Applicants are impermissibly attacking the references individually.

Braun describes a fuel rail 30 including an elongate tubular member 34, which defines a passageway 35 for fuel. (See Figs. 5 and 10; paragraph [0023]). Braun describes a fuel rail damper 10, disposed in the fuel rail 30, having a hollow member 12. (See Figs. 5 and 10; paragraphs [0018]-[0021]). Braun teaches that the sequential operation of the fuel injectors, which are supplied with fuel by the fuel rail, create rapid fluctuations in pressure within the fuel rail and specifically within passageway 35. (See paragraph [0023]). The pressure wave created by the pressure fluctuations impact one or both of walls 12a, 12b of fuel rail 10. (See paragraph [0023]). The active portion of walls 12a, 12b is compliant and flex as a result of the impacting pressure wave, and thereby at least partially absorb the pressure wave reduce the velocity of the

pressure wave, thereby slowing the wave and reducing the magnitude of the pressure pulsation. (See paragraph [0023]).

Alder describes a fluid system 10 consists of a fluid-carrying line 12 with an inner wall 14, and a damper 16 disposed within the fluid-carrying line 12. (See Fig. 1; paragraph [0012]). Alder discloses that the damper 16 comprises a hollow body portion 18 with a corrugated outer surface 17 that increases the dampening performance of the damper 16 in dampening pressure pulsations in the fluid-carrying line 12 by increasing the outer surface area of the damper 16 that comes into contact with the fluid within the fluid-carrying line 12. (See paragraph [0015]). During formation, Alder teaches that the damper 16 is placed in the fluid-carrying line 12 and the fluid-carrying line 12 is then pressurized to a higher pressure than the damper 16, which causes the hollow body portion 18 of the pressurized damper 16 to contract so that the damper 16 forms the desired shape with the corrugated outer surface 17. (See paragraph [0018]).

There is no suggestion in the applied references, or otherwise provided by the Office Action, to modify the Braun hollow member 12 to include the Alder damper 16. For example, Braun and Alder appear to use completely different mechanisms to achieve, albeit, a similar effect. Braun is directed to using a hollow chamber 12 to absorb or dampen pressure waves. Alder uses the damper 16 to achieve a similar effect. However, in Alder, the damper 16 is lodged in the fluid-carrying line 12 and is configured to form a shape in response to a fluid flow, such as fuel. Alder teaches that the fluid-carrying line 12 is pressurized to a higher pressure than the damper 16, which causes the hollow body portion 18 of the pressurized damper 16 to contract so that the damper 16 forms the desired shape with the corrugated outer surface 17. In contrast, the Braun hollow member 12 is not configured to contract to form any desired shape.

The Office Action states that such modification would “increase the dampening effect of the inner pipe of Braun by incorporating the noise emission material of Adler, as well as providing a specific desired dampening characteristic.” However, in the absence of a specific showing of any motivation or suggestion in the applied references to make this modification, the Office Action fails to provide any objective evidence or rational basis for asserting that such modification would increase the dampening effect or achieve desired dampening characteristics. Indeed, given the distinct dampening mechanisms disclosed in Braun and Alder, one of ordinary skill in the art would apparently have more likely considered substituting the mechanisms rather

than modifying the Braun hollow pipe 12 to include the damper 16, which would likely require a substantial redesign of the Braun system.

Further, in the Response to Arguments, the Office Action apparently attempts to assert that the damper 16, itself corresponds to an inner member, and that a compressible medium, such as gel or foam, that exists within the damper 16 corresponds to the claimed noise emission decreasing device. The Applicants respectfully submit, however, that this compressible medium cannot reasonably be considered to correspond to noise emission decreasing device, as recited in the pending claims. Additionally, even under the Examiner's interpretation, the Alder compressible medium would actually absorb pressure from the *outer pipe* and not be adapted to act so as to decrease a noise emitted from the *inner pipe*, as required by the pending claims.

Therefore, for at least these reasons, the Applicants respectfully submit that, claims 1, 18 and 19, and the claims depending therefrom, are patentable over the cited references.

### III. Conclusion

In view of the foregoing discussion, the Applicants respectfully submits that the present application is in all aspects in allowable condition. Favorable reconsideration and early issuance of a Notice of Allowance are therefore respectfully requested.

The Examiner is invited to contact the undersigned at (202) 220-4420 to discuss any matter concerning this application. The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

Dated: September 22, 2009

By: /Daniel G. Shanley/  
Daniel G. Shanley  
Reg. No. 54,863

KENYON & KENYON LLP  
1500 K Street, N.W., Suite 700  
Washington, D.C. 20005  
Tel: (202) 220-4200  
Fax: (202) 220-4201